

Joseph Patterson
October 2, 2015

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TRACEY WHITE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Cause No. 14-cv-01490-HEA
)	
THOMAS JACKSON, et al.,)	
)	
Defendants.)	

DEPOSITION OF JOSEPH PATTERSON
Taken on behalf of the Plaintiffs
October 2, 2015

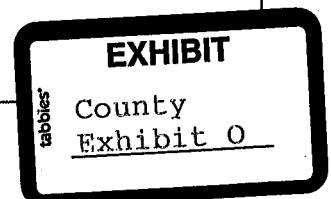
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1 14:23:25 by any citizen?

2 14:23:25 A Not that I'm aware of.

3 14:23:27 Q Have you ever been subjected to any discipline

4 14:23:28 by the department?

5 14:23:30 A No, sir.

6 14:23:30 Q Ever had your police powers suspended or

7 14:23:32 revoked?

8 14:23:34 A No, sir.

9 14:23:38 Q We are here today regarding Mr. Dwayne Matthews

10 14:23:43 and his arrest which occurred on August 13th of 2014. Do

11 14:23:57 you recall that arrest?

12 14:23:58 A Yes. Yes, I do.

13 14:24:00 Q Tell me what you recall about it.

14 14:24:02 A On August 13th, 2014, I was assigned, along with

15 14:24:04 other members of the Bureau of Drug Enforcement, street

16 14:24:06 enforcement unit, to act as an arrest team for the bureau

17 14:24:10 of patrol support, tactical operations unit, our

18 14:24:13 assignment included assisting the bureau of tactical

19 14:24:17 operations to maintain crowd control and make arrests of

20 14:24:21 all violators.

21 14:24:25 At approximately 9 p.m. we were on the skirmish

22 14:24:25 line near West Florissant and Canfield when the crowd

23 14:24:30 became hostile, there was -- I believe there was reports

24 14:24:32 of gunfire, there was at least one Molotov cocktail that

25 14:24:34 was thrown and several rocks and bottles. Commanders on

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1 14:24:38 the scene declared it an unlawful assembly after
2 14:24:40 numerous -- I would say dozens of warnings, and ordered
3 14:24:43 the crowd to disperse heading northbound on West
4 14:24:47 Florissant, away from Canfield, heading in the direction
5 14:24:49 toward Chambers.
6 14:24:51 As we dispersed the crowd, the vast majority of
7 14:24:57 the people did leave, I would say that 90 percent plus of
8 14:25:00 the crowd did disperse and follow the orders, and after
9 14:25:02 dozens and dozens of warnings, people finally left on
10 14:25:04 their own. There were still several individuals that
11 14:25:08 refused to leave, so that the line was actually brought
12 14:25:10 forward.
13 14:25:10 And I may be getting my directions wrong on West
14 14:25:13 Florissant. When I'm saying north, I mean West Florissant
15 14:25:15 towards Chambers Road. That road kind of curves and it
16 14:25:21 runs north/northwest probably more than anything, so if I
17 14:25:23 speak out of line, I apologize, when I'm saying north, I
18 14:25:27 mean toward Chambers Road.
19 14:25:28 So the crowd was asked to move toward Chambers
20 14:25:30 Road, and the skirmish line, as we call it, which was a
21 14:25:34 line of officers, at that time included probably 50 to 100
22 14:25:36 uniformed police officers, some in tactical gear, some in
23 14:25:40 regular patrol uniforms, there was smoke and tear gas that
24 14:25:43 was deployed, so gas masks and helmets were worn, some
25 14:25:45 officers had shields, some didn't.

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1 14:25:49 We were stretched across West Florissant Avenue
2 14:25:51 from the private property fence line to the private
3 14:25:57 property fence line on both sides of the street, so
4 14:25:58 basically a human chain of police officers, and in the
5 14:26:02 interior of that human chain in the center there was two
6 14:26:02 armored vehicles that were equipped with loud speakers and
7 14:26:06 police lights. Those police vehicles were continually
8 14:26:08 making announcements to disperse the crowd, move back,
9 14:26:12 move back, and as I said before, the vast majority of the
10 14:26:13 people did move back.

11 14:26:15 We took that line, that skirmish line of
12 14:26:15 officers, from West Florissant and Canfield and made our
13 14:26:19 way to Chambers Road to clear that intersection. In the
14 14:26:21 process of doing so, near the intersection of West
15 14:26:23 Florissant and Highmont, we came across a subject that was
16 14:26:27 later identified as Dwayne Matthews, and that was my first
17 14:26:28 encounter with him.

18 14:26:28 Q All right. Was Mr. Matthews with anyone?

19 14:26:30 A Mr. Matthews at the time of his arrest was
20 14:26:32 alone, but had came from the area that was deemed unlawful
21 14:26:36 assembly in a crowd full of people that were to our north,
22 14:26:38 and as I said, again, I may have my directions off, he was
23 14:26:42 coming from the area of Chambers Road.

24 14:26:43 Q Had you seen him with any of the members of the
25 14:26:45 crowd?

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1 14:26:45 A I could see someone come from the crowd, but due
2 14:26:47 to the tear gas and smoke, I could not tell you that I
3 14:26:51 specifically saw him with a set number of individuals with
4 14:26:57 him in his close personal space. I can tell you the area
5 14:27:00 that he was occupying was deemed to be clear and he was
6 14:27:04 not allowed to advance past our line of police due that
7 14:27:06 the fact it was, number one, an unlawful assembly, number
8 14:27:10 two, there was an active crime scene.

9 14:27:12 Q How can you assemble with yourself?
10 14:27:13 A Say again.
11 14:27:15 Q How can you assemble by yourself?
12 14:27:17 A I don't understand the question.
13 14:27:19 Q You said he was alone, right?
14 14:27:19 A Correct. He was alone at the time of his
15 14:27:21 arrest, but he didn't appear from nowhere, so he obviously
16 14:27:23 came from the crowd, he didn't manifest unless he's got
17 14:27:27 supernatural abilities.

18 14:27:27 Q Well, you say he came from the crowd, you'd seen
19 14:27:28 him with the crowd. He could have come from someplace
20 14:27:32 other than with the crowd, right?

21 14:27:34 MR. HUGHES: Calls for speculation, conjecture.
22 14:27:34 A I would have no idea to know that.

23 14:27:38 Q (by Mr. Lattimer) Right, that's what I'm
24 14:27:38 saying, you don't know where he came from, you just know
25 14:27:40 he came from the direction of the crowd, right?

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1 14:36:08 officers in the area.

2 14:36:08 Q So how do you know they were throwing things at
3 14:36:10 other police?

4 14:36:12 A Because through the police radio we were getting
5 14:36:12 reports then at even West Florissant and Chambers at the
6 14:36:15 lot of the Mobil they were also experiencing a hostile
7 14:36:17 environment.

8 14:36:19 Q So let's make it clear. Did you see anybody
9 14:36:21 throwing anything at the police?

10 14:36:21 A Yes.

11 14:36:23 Q At the time that you encountered Mr. Matthews?

12 14:36:23 A No, not at that exact moment, because, as I said
13 14:36:27 before, he was alone.

14 14:36:28 Q And, in fact, did you see anybody doing anything
15 14:36:30 towards the police at the time that you encountered
16 14:36:32 Mr. Matthews?

17 14:36:34 A Well, there was only -- the only other people
18 14:36:36 around besides Mr. Matthews was other police officers.

19 14:36:40 Q Okay. So Mr. Matthews wasn't throwing anything
20 14:36:43 at the police, right?

21 14:36:45 A Not at the time of his arrest, no.

22 14:36:45 Q At any time did you see him throwing anything at
23 14:36:47 the police?

24 14:36:49 A No, because the first time I saw him was at the
25 14:36:51 time of his arrest.

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1 14:36:51 Q And at that time he was not doing anything that
2 14:36:57 would be considered assaultive towards the police; is that
3 14:36:58 correct?

4 14:37:00 A I would beg to differ. When he was running at
5 14:37:04 us and he refused our orders to stop.

6 14:37:04 Q That's assault?

7 14:37:06 A I am assuming that an assault could be imminent,
8 14:37:08 and that's when we're going to start probably taking some
9 14:37:10 more actions.

10 14:37:12 Q But that may be a basis for you to stop and
11 14:37:13 detain someone, but it is certainly not a basis for you to
12 14:37:17 arrest, is it?

13 14:37:17 A I would say that combined with the fact that he
14 14:37:21 was present in an unlawful assembly is certainly a basis
15 14:37:21 for arrest.

16 14:37:23 Q So there's probable cause for an assault because
17 14:37:25 someone is observed --

18 14:37:27 A No.

19 14:37:27 Q Let me finish the question. -- is observed
20 14:37:28 running towards the police?

21 14:37:30 A I never said that there was a probable cause for
22 14:37:32 assault, he was never arrested for assault.

23 14:37:34 Q I'm asking that. When I asked you before you
24 14:37:36 told me you beg to differ because I said -- I asked you
25 14:37:40 was coming towards the police an assault, and you said you

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1 14:39:23 A Yes.

2 14:39:24 Q And at that point he did stop?

3 14:39:25 A He stopped only for a brief moment --

4 14:39:27 Q I understand.

5 14:39:27 A -- and he continued going forward.

6 14:39:28 Q But you did say he stopped, right?

7 14:39:30 A For a brief moment.

8 14:39:32 Q Right. So brief, ten minutes, one second, you

9 14:39:34 stop you stop, right?

10 14:39:36 A Yeah.

11 14:39:36 Q Okay. So he stopped at that point, right?

12 14:39:38 A For like -- only stopped probably because I

13 14:39:40 guess he was -- I don't know -- My fear at the time of

14 14:39:42 that case was that there was a lot going on, okay, and I

15 14:39:45 realized that those loud speakers can be sort of difficult

16 14:39:47 to hear at close distance because they're made to project

17 14:39:51 over a long area. He had came so close to us that I was

18 14:39:57 fearing that he was not hearing the loud speakers

19 14:40:00 appropriately, because I had no idea why a person would

20 14:40:04 act so unreasonably after hearing so many warnings from

21 14:40:06 those loud speakers to come forward.

22 14:40:06 So here's exactly what I decided in my mind at

23 14:40:08 that time. Although that I was standing in a cloud of

24 14:40:10 tear gas, which is very, very irritating if you've ever

25 14:40:12 been exposed to it, there's tear gas and smoke in the area

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1 14:40:13 lingering, I removed my gas mask so that I could speak to
2 14:40:17 him just in a more of a conversational tone, and I said,
3 14:40:19 "This is the police, stop," you know.
4 14:40:23 Q And he stopped?
5 14:40:23 A For a brief moment, and then he said, "I'm
6 14:40:25 coming through."
7 14:40:27 Q Uh-huh.
8 14:40:27 A And he continued forward. And at that point,
9 14:40:28 that is when Detective Jackson first --
10 14:40:32 Q Shot him?
11 14:40:32 A -- shot at him with his less-lethal round.
12 14:40:36 Q Because he was going home?
13 14:40:38 A Because he refused all the warnings and then
14 14:40:40 continued --
15 14:40:40 Q To do what?
16 14:40:40 A To stop and disperse the area.
17 14:40:42 Q You have to help me on this. You say he ignored
18 14:40:43 the warnings to stop and then you say he stopped. So
19 14:40:51 didn't he comply at least --
20 14:40:58 A He complied --
21 14:40:58 Q -- momentarily?
22 14:40:58 A Momentarily he did comply.
23 14:41:00 Q Okay. And then he said he was going through?
24 14:41:02 A He said, "I'm coming through."
25 14:41:04 Q Okay. And then he shot?

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1 14:50:32 don't know what to tell you.

2 14:50:34 Q What area was that that had no tear gas?

3 14:50:36 A The Chambers and West Florissant area, at that
4 14:50:38 point, if he truly came from that area, there was nothing
5 14:50:40 that had been launched that far back at that point.

6 14:50:43 Q How do you know?

7 14:50:43 A Because the SWAT team was with us, we were with
8 14:50:45 them, they were the only ones launching gas.

9 14:50:47 Q How do you know?

10 14:50:49 MR. HUGHES: How does he know, what, that the
11 14:50:49 SWAT team was with them?

12 14:50:51 MR. LATTIMER: No, that there was no tear gas at
13 14:50:57 Chambers and West Florissant.

14 14:50:58 MR. HUGHES: Do you want him to explain who
15 14:51:00 deployed tear gas?

16 14:51:02 MR. LATTIMER: Yeah.

17 14:51:02 Q (by Mr. Lattimer) How do you know who deployed
18 14:51:02 tear gas?

19 14:51:04 A Because I was standing right next to them.

20 14:51:06 Q Those people deployed tear gas. How do you know
21 14:51:08 other people didn't deploy tear gas?

22 14:51:08 A Because they were the only people there to
23 14:51:10 deploy tear gas.

24 14:51:12 Q So there was no other police officers, no other
25 14:51:13 police forces, nobody else who could have deployed tear

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1 14:53:17 that's one thing, you know, other officers may have
2 14:53:21 testified to that, but I guess when you said are you the
3 14:53:23 arresting officer, he said, I think, the effect that it
4 14:53:28 would be on the booking sheet, if there is a booking
5 14:53:30 sheet, so that's the confusion.

6 14:53:32 MR. LATTIMER: I'm not confused.

7 14:53:34 MR. HUGHES: Okay.

8 14:53:34 Q (by Mr. Lattimer) All right. So now that we
9 14:53:40 got that, he's coming toward you and nobody else is, and
10 14:53:47 so he's shot because he didn't listen?

11 14:54:00 A That's not true.

12 14:54:00 Q Well, why was he shot?

13 14:54:02 A He was shot because he continued his forward
14 14:54:04 advancement toward police officers after refusing dozens
15 14:54:06 upon dozens of warnings to it, and he continued that, so
16 14:54:08 at that point we don't have to wait to be assaulted to use
17 14:54:12 force. So we have no idea what his intentions are,
18 14:54:13 especially after he proclaims to us that I'm coming
19 14:54:17 through, after he's been told numerous times that he will
20 14:54:17 not be allowed to lawfully come through, we only have that
21 14:54:23 time in the world that he is going to commit a crime and
22 14:54:25 he's going to do it through us, those are his words, he's
23 14:54:28 coming through, so at that point, fearing an assault was
24 14:54:30 imminent, that is when Detective Jackson first deployed
25 14:54:34 the less-lethal rounds.

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1 15:04:32 the rest of us standing around.

2 15:04:34 Q Okay. And so he announces "Less lethal, less
3 15:04:38 lethal," and Mr. Matthews is still coming towards the
4 15:04:40 police with his left palm open and his right hand around
5 15:04:47 an object that you believe was a cell phone?

6 15:04:49 A That I believe was a cell phone.

7 15:04:51 Q Yeah, that you believe was a cell phone, and
8 15:04:57 that's when he shot?

9 15:04:58 A Yes.

10 15:04:58 Q And that's when he shot how many times, do you
11 15:05:04 recall?

12 15:05:04 A I heard a series of three to five, but there was
13 15:05:08 a lot of -- there was a lot of yelling and stuff going on
14 15:05:10 at the same time, so I'd have to refer to the report for
15 15:05:13 the exact amount of shots, but at the time I heard what I
16 15:05:15 thought was three to five.

17 15:05:15 The problem with the shotguns, when you're
18 15:05:19 standing that close to them, there's a lot of noise with
19 15:05:21 the racking of the shotgun and then the discharge of the
20 15:05:23 round, and sometimes those are happening almost
21 15:05:25 simultaneously, so it's difficult to hear as opposed to a
22 15:05:28 pistol round where it's your singular pops, there's sort
23 15:05:32 of a compound sound profile of a shotgun with the racking
24 15:05:34 back, racking forward, and then the round going off, it's
25 15:05:38 a little more difficult to tell the distinctive shotgun

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1 15:06:45 where a baton strike -- you know, he was outside of
2 15:06:49 personal distance for a baton strike and he was outside of
3 15:06:51 distance for OC spray, it wouldn't have had any effect, so
4 15:06:58 other than that I had a big pistol, and obviously that was
5 15:07:02 not going to happen, that certainly was not the justified
6 15:07:04 use of force.

7 15:07:04 **Q Okay. So what happened next?**

8 15:07:08 A After the rounds took, what I would say, taken
9 15:07:10 effect, I guess, is fair to say, you definitely see a
10 15:07:12 physical reaction from them, he fell or hobbled or
11 15:07:15 stumbled into -- off to his left-hand side, which would
12 15:07:19 have been our right side, over the -- next to the sidewalk
13 15:07:21 was sort of a culvert, probably had two to three feet of
14 15:07:25 water in it from recent rains, and he fell into that. At
15 15:07:28 that point, that's when -- I guess it was Detective Bates
16 15:07:30 and Detective Vinson moved forward and tried to grab him
17 15:07:34 to pull him out of that culvert.

18 15:07:36 **Q Did you go down into that -- I mean, you had the**
19 15:07:43 **street, the sidewalk, well, a grassy knoll then the**
20 15:07:45 **sidewalk, and then there was a bit of grass, and then this**
21 15:07:49 **culvert you're talking about sort of dropped down?**

22 15:07:51 A It's a pretty steep drop, yeah.

23 15:07:57 **Q Steep drop, okay. Did you go down into that**
24 15:07:58 **area?**

25 15:07:58 A I did not.

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1 15:07:58 Q All right. So you never went down near the
2 15:08:00 water?

3 15:08:00 A I went right up to the edge, and then Detective
4 15:08:04 Vinson actually had to jump in to get him out. And if you
5 15:08:08 can imagine, sort of Vinson's in the water trying to get
6 15:08:10 the gentleman to grab his hand, and Detective Bates is
7 15:08:13 basically pulling on Detective Vinson to pull both of them
8 15:08:15 out, because it was little bit of a -- it was a pretty
9 15:08:19 steep sort of slippery slope, I don't want to use a bad
10 15:08:21 term, but it was pretty steep, and if it's something that
11 15:08:23 you got into, you almost had to crawl out of it.

12 15:08:27 Q All right. And so anybody else go down there?

13 15:08:30 A To my recollection it was only Detective Vinson
14 15:08:32 physically inside submerged in the water up to probably --
15 15:08:36 almost nearly his gun belt trying to get the gentleman
16 15:08:38 out, and then Detective Bates was partially in grabbing at
17 15:08:42 Detective Vinson trying to pull him back up to the
18 15:08:45 sidewalk area.

19 15:08:45 Q Okay. So what happens next?

20 15:08:45 A They finally were able, after a few seconds, to
21 15:08:49 pull him out and then he was put down to the ground, but
22 15:08:51 that's when -- once he got put down on the ground, he
23 15:08:58 started kind of thrashing and kicking about, and they were
24 15:09:00 having a difficult time, I mean, he's wet, they were wet
25 15:09:04 at this point, trying to get him to be secured, they were

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1 15:09:06 having a very difficult time securing his arms and legs,
2 15:09:08 they were just kind of moving about. He was yelling at
3 15:09:10 that point.
4 15:09:10 So at that point we're saying, "Stop resisting,
5 15:09:12 stop resisting," he's been told he's under arrest, and I'm
6 15:09:15 watching those two guys struggle with him pretty good, and
7 15:09:19 everybody else that's standing around was carrying an
8 15:09:21 object, and those -- because Detective Vinson and
9 15:09:23 Detective Bates were in the designated what we call like
10 15:09:25 hands-on, so they were going to physically try and put the
11 15:09:28 handcuffs on him.
12 15:09:28 Detective Jackson, as you know, had a
13 15:09:32 less-lethal shotgun, our sergeant, I believe, was carrying
14 15:09:34 his rifle, so I was going to be -- I kind of looked around
15 15:09:36 and realized I was the only other person to kind of get in
16 15:09:38 to try and help get this under control.
17 15:09:40 So as Detective Vinson and Detective Bates were
18 15:09:43 attempting to control Mr. Matthews, he continued to thrash
19 15:09:45 about, I actually told him, "Stop resisting, we're going
20 15:09:49 to pepper spray you, stop resisting." After a few more
21 15:09:51 moments, he continued thrashing about, and I retrieved my
22 15:09:58 department-issued oleoresin capsicum spray from my belt,
23 15:10:04 OC spray, it's just a standard personal use one, it wasn't
24 15:10:06 like a big fire extinguisher style or anything, just a
25 15:10:08 normal duty one, I pulled it from my gun belt, I gave him

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1 15:10:11 another warning, "Stop or you're going to get pepper
2 15:10:12 sprayed, stop, stop resisting," and he continued. I gave
3 15:10:15 him a one-second burst just right above his eyebrows, and
4 15:10:19 then once that took effect, I would say a second, maybe no
5 15:10:21 longer than two, it was obvious that that started to hurt
6 15:10:25 him, and then that's when he literally just sort of, I
7 15:10:27 would say, gave up and they were able to put his hands
8 15:10:30 behind his back, and then that's when I guess the
9 15:10:32 beginning of the video that we have of his first encounter
10 15:10:34 with him begins.

11 15:10:36 Q Okay. And at that point he's saying, "I was
12 15:10:38 just trying to go home"?

13 15:10:40 A Then he was sort of given like a -- yeah, he
14 15:10:43 started -- he went from being a little more aggressive and
15 15:10:45 certainly defensive resistant, and then he got -- I guess
16 15:10:47 with the pain of the OC spray and probably -- and I'm sure
17 15:10:51 it was an emotional thing for him to have to be arrested
18 15:10:57 and all this other stuff, he seemed to kind of soften up,
19 15:10:58 and that's when he tried to -- kept explaining himself, "I
20 15:11:00 was trying to do this, I'm just trying to do that."

21 15:11:02 And from that point on we immediately brought
22 15:11:04 him over to -- it was the two St. Charles County SWAT
23 15:11:08 officers, one which was an actual paramedic, they were
24 15:11:12 aware that the use of force was given, and so we thought
25 15:11:13 it was the most prudent thing to allow him to look at a

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1 15:11:17 paramedic before he went too far, so we handed him off to
2 15:11:21 those guys and we continued on. But from the time he was
3 15:11:23 handcuffed to the time we gave him to the medic, he was
4 15:11:25 completely calm and cooperative, and I would say -- I
5 15:11:27 would almost say he was apologetic.

6 15:11:28 **Q Did anybody ever try to ascertain where he**
7 15:11:32 **lived?**

8 15:11:32 **A** No.

9 15:11:36 **Q Did anybody have any conversation as to where he**
10 15:11:40 **was going?**

11 15:11:40 **A** There was no time for conversation, that
12 15:11:42 happened pretty rapidly, the situation -- I mean, from the
13 15:11:44 time of contact when we first saw him till the time he was
14 15:11:47 in handcuffs was less than a minute, so you can imagine
15 15:11:49 the fluid situation of us trying to advance forward and
16 15:11:51 him coming at us, these things kind of went -- they went
17 15:11:58 quickly, so there wasn't much time for a sit down and
18 15:12:00 discuss, you know, where he actually lived or how would he
19 15:12:04 get there.

20 15:12:04 At that point with the crowd being the way that
21 15:12:08 it was and the external circumstances of the situation, no
22 15:12:10 one was allowed to be around there, so we were not
23 15:12:13 allowing anyone to come through, period. Now, earlier in
24 15:12:15 the night when things were more calm and the area was
25 15:12:19 still blocked off, we were trying to accommodate people.